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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

LARISSA GESMUNDO,  
  
Plaintiff,  
  
v.  
  
CITIBANK, N.A.; and DOES 1-10,  
inclusive,  
  
Defendant.

Case No.

**DEFENDANT CITIBANK, N.A.'S  
NOTICE OF REMOVAL OF  
ACTION TO THE UNITED  
STATES DISTRICT COURT FOR  
THE NORTHERN DISTRICT OF  
CALIFORNIA UNDER 28 U.S.C.  
§ 1441(a) AND 28 U.S.C. §1331  
(FEDERAL QUESTION)**

[Alameda County Superior Court  
Case No. RG18931418]

Complaint Filed: Dec. 07, 2018  
Trial Date: TBA

**TO THE UNITED STATES DISTRICT COURT FOR THE NORTHERN  
DISTRICT OF CALIFORNIA:**

**PLEASE TAKE NOTICE THAT**, pursuant to 28 U.S.C. Sections 1331, 1441(a), and 1446, Defendant Citibank, N.A. (“Citibank”) hereby removes the action entitled *Larissa Gesmundo v. Citibank, N.A.*, Superior Court of the State of California for the County of Alameda, Case No. RG18931418 (the “Action”), to the United States District Court for the Northern District of California on the following grounds:

1. Removal Is Timely. The Complaint was received and served on Citibank on December 12, 2018. Citibank has timely filed this Notice of Removal pursuant to 28 U.S.C. § 1446(b) because it has filed it within 30 days of receipt and service of the Complaint, and within one year after “commencement of the action” in state court. Pursuant to 28 U.S.C. § 1446(a), true and correct copies of all process and pleadings in the Action and received by Citibank are attached as Exhibit A. On January 11, 2019, Citibank filed its Answer and Affirmative Defenses in the Action. A copy of the Answer is attached hereto as Exhibit B.

2. This Court Has Removal Jurisdiction Over This Action. The Action is a civil action of which this Court has original jurisdiction under 28 U.S.C. § 1331 and is one that Citibank may remove to this Court pursuant to the provisions of 28 U.S.C. § 1441(b) in that Plaintiff alleges violations of the federal Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the “TCPA”) (*see* Compl., ¶¶ 1, 22-27), a claim that is created by, and arises under, federal law. *See Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 748 (2012) (holding that the TCPA's permissive grant of jurisdiction to state courts does not deprive the United States district courts of federal-question jurisdiction over private TCPA suits, and that a TCPA claim, “in 28 U.S.C. § 1331’s words, plainly ‘aris [es] under’ the ‘laws ... of the United States’”). To the extent any other claims in the Action arise under state law, including the California Rosenthal Fair Debt Collection Practices Act, Cal. Civ. Code § 1788, *et seq.*,

1 supplemental jurisdiction over such claims exists pursuant to 28 U.S.C. §§ 1367 and  
2 1441(c).

3 3. Proper Jurisdiction. This Court is the proper district court for removal  
4 because the Superior Court of the State of California for the County of Alameda is  
5 located within the United States District Court for the Northern District of California.

6 4. Notice Has Been Effected. Citibank concurrently is filing a copy of this  
7 Notice of Removal of Action with the Superior Court of the State of California for the  
8 County of Alameda. Citibank will concurrently serve Plaintiff with copies of this  
9 Notice of Removal and the Notice filed in the Action.

10 **WHEREFORE** Citibank prays that the above Action now pending against it in  
11 the Superior Court of the State of California, County of Alameda, be removed  
12 therefrom to this Court.

13  
14 DATED: January 11, 2019

DOLL AMIR & ELEY LLP

15  
16 By: /s/ Hunter R. Eley

17 HUNTER R. ELEY  
18 Attorneys for Defendant,  
19 CITIBANK, N.A.  
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